

ESTTA Tracking number: **ESTTA792873**Filing date: **01/03/2017**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Anhui Huami Information Technology Co., Ltd.		
Entity	Corporation	Citizenship	China
Address	12 Floor Building A4, Nat Animation Base No. 800 Wangjiang Road Hefei, Anhui, 230088 CHINA		

Attorney information	Thomas P. Arden Young, Basile, Hanlon & MacFarlane 150 N. Wacker Drive Suite 1450 Chicago, IL 60606 UNITED STATES arden@youngbasile.com Phone:312-445-9322
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Registration Subject to Cancellation

Registration No	4434584	Registration date	11/19/2013
International Registration No.	NONE	International Registration Date	NONE
Registrant	LG Electronics Inc. 20 Yeouido-dong Youngdeungpo-gu Seoul 150-721, KOREA, REPUBLIC OF		

Goods/Services Subject to Cancellation

Class 007. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Electric clothes washing machines; Automatic dishwashers; Electric vacuum cleaners

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Telephone sets; Wireless Telephone sets; Portable communications apparatus, namely, Handsets, Walkie-Talkies, Satellite Telephones and Personal Digital Assistants; Mobile phones; MPEG audio layer-3 players; Television receivers; Television remote controllers; Encoded electronic chip cards for improvement of television image quality; Universal Serial Bus drives; Digital Media Broadcasting players; Headsets for mobile phones; Portable Chargers for mobile phone batteries and digital camera batteries; Electronic Photo Albums; Digital Picture Frames for displaying digital pictures, video clips and music; Monitors for computer; Laptop computers; Computers; Digital Versatile Disc players; Portable hard disk drives; Apparatus for recording, transmission or reproduction of sound or images for use in telecommunications; Apparatus for recording, transmission or reproduction of sound or images; Electric audio and visual apparatus and instruments, namely, audio and video cassette recorders, audio recorders, video tape recorders, or audio-video receivers; Stereos; Computer software for mobile phone, namely, for mobile phone operating systems, sending and receiving information, to provide web-based access to applications, products and services; Computer application software for television, namely, software for setting-up and calibrating television receivers; Computer application software for personal computer monitors, namely, software for setting-up and calibrating personal computer monitors; Digital Versatile Disc

players for home theaters; Speakers for home theaters; Audio-Video receivers for home theaters; Projectors for home theaters; Integrated circuits; AudioReceivers; On Board electronic vehicle units and Electronic smart cards for payment of tolls on the highway; Transponders, namely, electronic terminals equipped in vehicles for electronic commercial transactions; Closed-Circuit Television Cameras; Network monitoring cameras, namely, for surveillance; Electronic displays, namely, digital signage; Thermal printers; Digital colour printers; Laser printers; Ink jet printers; Colour printers; Printers for use with computers; Solar batteries; Personal Computer Cameras; Digital voice recorders; Video-cassette recorders; Network monitors; Electronic Notepads; Tablet computers; Interactive electronic white board computers; Settop boxes; Downloadable image files accessible via the Internet; Electronic downloadable publications in the nature of magazines, newspapers, books, manuals in the field of electronics; Video conference system comprising, monitors, video cameras and audio speakers; Monitors for videoconference; Cameras for video conference; Speakers for video conference; Three dimensional eyeglasses for television receivers; DNA chips; Dosage dispensers, namely, machines for dispensing pre-determined dosages of medication; Oxygen transvasing apparatus, namely, oxygen regulators; Incubators for bacteria culture; Laboratory equipment and supplies, namely, test tubes; Food analysis apparatus, namely, diagnostic apparatus for testing food; Physical and chemical laboratory apparatus and instruments, namely, laboratory chemical reactors, beakers, gas mixers for laboratory use; Apparatus and instruments for physics, namely, wavemeters; Apparatus for automatic chromatography; Magnetic agitators for laboratory use; Pipettes; Chemistry apparatus and instruments, namely, flasks, gas mixers, laboratory chemical reactors; Computer software for dosimetry purposes in the field of radiotherapy; Computer software for managing medical data for medical purposes; Biochips for research or scientific purposes; Cell chips, namely, DNA chips; Analysis apparatus for cell chips, namely, chip card readers, optical readers; Diagnostic chips for medical purposes, namely, biochips; Computer software for diseases diagnostics for medical purposes; Computer software for developing, management of electronic charts for medical purposes

Class 010. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Massage apparatus; Vibrating massage apparatus; Electric massage apparatus for household use; Massage apparatus for human body; Bed vibrators; Electric massage chairs; Esthetic massage apparatus; Blood testing apparatus; Apparatus for blood analysis; Devices for measuring blood sugar; Diagnostic biochips for medical purposes; Radiological apparatus for medical purposes; Radiotherapy apparatus; X-ray apparatus for medical purposes; X-ray appliances for dental; Irrigators for medical use; Lasers for medical purposes; Heart pacemakers; Orthodontic machines and instruments for dental purposes; Nursing appliances, namely, electric breast pump; Suture materials for medical purposes; Electric blankets for medical purposes; Electric heating pads for medical purposes; Gloves for medical purposes; sanitary or respiratory masks for medical purposes; Lavage apparatus, namely, irrigators; Sterilizing apparatus for hospital use, namely, sterilizers; Portable X-ray appliances for medical use; Portable X-ray detectors for medical use; Gene analysis apparatus for medical purposes; DNA diagnostic apparatus for medical purposes; Gene diagnostic apparatus for xenodiagnosis in the medical field; Gene diagnostic apparatus for medical purposes; Automated External Defibrillator; Capillary tubes

Class 011. First Use: 0 First Use In Commerce: 0


All goods and services in the class are cancelled, namely: Electric Refrigerators; Refrigerators for kimchi; Electric lightwave ovens for cooking, grilling and microwaving; Temperature controlled electric wine cellars for household use; Electric cooking ovens; Electric freezers; Electric laundry dryers; Gas ranges; Microwave ovens; Gas Cooktop; Electric ranges for household use; Air purifiers; Air conditioners; Hot air apparatus, namely, hot-air space heating apparatus; Humidifiers; Electric Dehumidifier for household use; Gas grills; Dish disinfectant apparatus for household purposes; Water purifiers for household purposes; Electric water purifiers for household use; Water ionizers; Water ionization apparatus for household purposes; Water purifying apparatus; Electric footwarmers; Water purification installations; Apparatus for purifying water; Precision filters for water treating; Water desalination plants; Membrane apparatus in the nature of filters for purifying water; Membrane filters for water purifiers for household purposes; Membrane filters for electric water purifiers for household use; Membrane filters for water purifiers for industry; Membrane filters for water purifying apparatus; Water purifying apparatus and machines utilizing Membrane filters; Membrane filters for water treating; Membrane filter apparatus for water treating; Purification installations for sewage; Purification installations for wastewater reclamation and reusing system; Wastewater purifying and treatment apparatus; Filters for wastewater; Water purifiers for industry; Filters for water purification installation; Membrane for water purifying apparatus; Solar collectors; Solar water heaters; Street lamps; Safety lamps for underground use; Germicidal lamps for purifying air; Neon lamps; Lanterns; Dynamo lamps; Imple-

ments for discharge lamps; Incandescent lamps; Incandescent lamp implements; Ultraviolet ray lamps not for medical purposes; Germicidal lamps; Chandeliers; Water surface lamps; Mercury lamps; Aquarium lights; Spotlights; Arc lamps; Safety lamps; Diving lights; Decoration lamps; Infrared lamps; Electric torches for lighting; Fishing gathering lamp for use on water to lure fish; Ceiling lights; Electric fairy lights for festive decoration; Electric lights for Christmas trees; Standard lamps; Searchlights; Artificial solar lamp; Floodlights; Fluorescent lamps; Flashlights; Lights for motorcycles; Automobile lights; Reflectors for automobiles; Lamps for directional signals of automobiles; Electric bulbs for directional signals of automobiles; Anti-dazzle devices for automobiles, namely, lamp fittings; Parts of lighting apparatus, namely, lamps; Defrosters for automobiles; Air conditioners for automobiles; Headlights for automobiles; Ventilators for automobiles; Heaters for automobiles; Branching pipes being parts of air conditioners; Flexible hose for air conditioners

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
Abandonment	Trademark Act Section 14(3)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86736550	Application Date	08/25/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SMARTQ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2009/04/17 First Use In Commerce: 2010/01/01 Computers; MP4 players; PC tablets; Tablet computer; Portable media players; Portable telephones; Mobile Internet devices (MID); Wearable digital electronic devices comprised primarily of software for viewing, sending and receiving texts, emails, data and information from smart phones, tablet computers and portable computers, and display screens and also featuring a wristwatch; and Parts and accessories thereof, namely, computer cables, protective cases for the wearable electronic device featuring the wristwatch, capacitive styluses for touch screen devices, battery chargers, memory cards; Electronic navigational instruments; GPS navigation device; Digital book readers; Computer software for page recognition and rendering for use in viewing, printing, navigating, editing, annotating and indexing electronic documents, and transferring electronic documents via a local or global communications network		

Attachments	86736550#TMSN.png(bytes) Petition to Cancel Registration of SMART Q Reg. No. 4434584.pdf(13260 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Thomas P. Arden/
Name	Thomas P. Arden
Date	01/03/2017

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of: Registration No. 4,434,584: SMART Q, in International Classes 7, 9, 10, 11
Issued November 19, 2013

ANHUI HUAMI INFORMATION)
TECHNOLOGY CO., LTD.,)
)
Petitioner,)
)
v.)
)
LG ELECTRONICS, INC.,)
)
Respondent.)

Cancellation No. _____

PETITION FOR CANCELLATION

Anhui Huami Information Technology Co., Ltd. (“Petitioner”), a Chinese corporation with its principal place of business in Hefei, Anhui, China, believes that it is and will continue to be damaged by registration of the mark shown in Registration No. 4,434,584, and hereby petitions to cancel the same.

As grounds for its Petition for Cancellation, Petitioner alleges the following:

COUNT I

1. Petitioner for many years has been engaged in the creation, development, manufacture, distribution, advertising, provision and sale of various electronic goods, communications devices, computer software, and computer hardware.

2. Petitioner adopted and has used since at least January, 2010, the mark SMARTQ in connection with the sale and offering for sale of its aforesaid goods in commerce in the United States.

3. Respondent, LG Electronics, Inc., applied to register the mark SMART Q on April 19, 2011, based on Section 1(b) and Section 44(d) of the Lanham Act. In its application,

Respondent declared both that it had a bona fide intention to use the SMART Q mark in interstate commerce and that it had applied to register the mark in Korea.

4. A registration of Respondent's mark subsequently issued in the Republic of Korea. On November 19, 2013, Respondent secured the registration Petitioner requests be cancelled herein, United States Registration No. 4,434,584, based on Respondent's Korean registration, under Section 44(e) of the Lanham Act, 15 U.S.C. § 1126(e).

5. On August 25, 2015, Petitioner applied to register its SMARTQ mark, Application Serial No. 86736550. The Patent & Trademark Office refused registration of Petitioner's SMARTQ mark and has issued a final office action against Petitioner's Application Serial No. 86736550, on the basis that Petitioner's use of its mark would cause confusion with the use of Respondent's SMART Q mark under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

6. On information and belief, neither Respondent nor any related company of Respondent has made use of the mark SMART Q in commerce since at least November 19, 2013, the date the mark was registered, and has no intention to use the mark.

7. Respondent's aforesaid lack of use of the mark SMART Q for the past three consecutive years constitutes prima facie evidence of abandonment, pursuant to 15 U.S.C. § 1127.

8. Respondent's aforesaid lack of use of the mark SMART Q and intention not to use the mark constitutes abandonment under § 14 of the Lanham Act, 15 U.S.C. § 1064.

WHEREFORE, continued registration of Respondent's SMART Q mark is damaging to Petitioner, and the registration should be cancelled for abandonment, in accordance with 15 U.S.C. § 1064.

COUNT II

9. Petitioner re-alleges paragraphs 1-5 of its Petition for Cancellation.

10. On information and belief, neither Respondent nor any predecessor or related company of Respondent used in commerce Respondent's SMART Q mark prior to April 19, 2011, the date it filed its application to register said mark.

11. Petitioner's aforesaid use of its SMARTQ mark in commerce commenced prior to the filing date of Respondent's application to register its SMART Q mark.

12. Petitioner has continuously used its SMARTQ mark in interstate commerce since its first use in January, 2010.

13. Petitioner's SMARTQ mark acquired a strong distinctiveness prior to the filing date of Respondent's application to register its SMART Q mark.

14. The use by Respondent of its SMART Q mark in connection with the goods recited in Registration No. 4,434,584 is likely to cause confusion, mistake or deception as to the source of origin, sponsorship, or approval of Respondent's goods and to result in the belief by the purchasing public, trade and others that Respondent or its goods are authorized, licensed, certified or approved by Petitioner or are legitimately connected with Petitioner or its SMARTQ mark.

WHEREFORE, continued registration of Respondent's SMART Q mark is damaging to Petitioner, and the registration should be cancelled pursuant to 15 U.S.C. §§ 1052(d) and 1064.

Please address all communications to Thomas P. Arden, Young, Basile, Hanlon & MacFarlane, 150 N. Wacker Drive, Suite 1450, Chicago, Illinois 60606.

Respectfully submitted,

YOUNG, BASILE, HANLON & MACFARLANE

By: /s/Thomas P. Arden/

Thomas P. Arden

Nicholas Kurk

150 N. Wacker Drive

Suite 1450

Chicago, Illinois 60606

312-445-9322

Attorneys for Applicant

CERTIFICATE OF SERVICE

I, Thomas P. Arden, an attorney for Petitioner, hereby certify that on this 3rd day of January, 2017, a copy of the foregoing **PETITION FOR CANCELLATION** was served upon Robert J. Kenney, Birch, Stewart, Kolasch & Birch, LLP, P.O. Box 747, Falls Church, Virginia 22040-0747, attorneys of record for the subject registration, via first class mail, postage prepaid.

/s/Thomas P. Arden/